CHAPTER 4: PROCESSING NOFA RESPONSES — STAGE 1

4.1 INTRODUCTION

Key Origination Activities in Stage 1

- Publish NOFA;
- Accept NOFA responses;
- Assess project proposals for preliminary eligibility;
- Score and rank preliminarily eligible project proposals; and
- Send letters notifying applicants of results of review.

The basic objective of the multifamily housing program is to provide decent, safe, and sanitary affordable rental housing for very low-, low-, and moderate-income family, elderly and handicapped households. The Agency has a limited amount of funds to achieve this objective and, therefore, must ensure that the best and most appropriate projects are placed in rural areas of greatest need. It is the Agency's goal to provide the maximum number of units possible without sacrificing the quality of the housing.

The Agency has determined that the best way to achieve this objective is to solicit housing proposals for designated places through a public notification of funding availability (NOFA). This is Stage 1, or the competitive stage of the loan origination process. Loan review committees in each state score the preliminarily eligible proposals according to a scoring system that applies points for specified criteria that advance the Agency's interests. Each state submits their list of ranked proposals to the National Office for nationwide ranking. **Attachment 4-A** is the summary sheet that states must use to provide information to the National Office on applications received. The National Office will notify States of the proposals selected by the National Office for further processing and these applications will be processed by the States through Stages 2 and 3 of the application process.

This chapter discusses the procedures loan processing staff will use in Stage 1, the first step in the process of loan origination. Specifically, the chapter presents the Agency's procedures for:

- Publishing the NOFA;
- Accepting housing proposals in response to the NOFA;
- Assessing preliminary eligibility of the NOFA response;
- Scoring and ranking NOFA responses;
- Selecting NOFA responses to submit initial applications; and
- Informing the loan applicants of the results of the review of their NOFA responses.

Exhibit 4-1 below provides a summary of the loan origination time line.

Exhibit 4-1

Loan Origination Time Line
(Best Case Scenario)

November 1	NOFA published.
December 1 (30 days after NOFA published or as specified in NOFA)	NOFA responses due.
December 2—16	State Office completes preliminary eligibility and feasibility review, scores and ranks applications, and submits list of applications to the National Office. **Attachment 4-A** is the summary sheet that states use to describe their applications.
December 16—31	National Office ranks applications nationwide and informs State Offices which applications have been selected to be processed further.
January 1	State Office sends out invitations for initial applications.
March 1 (60 days after initial application packages go out)	Initial applications due.
March 2-31	State Office performs site visit, begins underwriting process to determine eligibility, orders appraisals.
April 1 (30 days after receipt of initial application packages)	State Office invites final applications, performs final analysis to confirm eligibility and feasibility.
May 1 (30 days after final application package is sent)	Final application due.
August 1-15	National pooling of unused funds.
September 30	End of fiscal year; deadline for obligating funds occurs shortly before this date.

The procedures for submitting the detailed loan application package, or Stage 2 of the loan application process, are described in Chapter 5.

While the origination process for Farm Labor housing is very similar to that for multifamily housing, some differences do exist. Chapter 13, Farm Labor Housing Loans and Grants, details these differences and should be reviewed whenever a Farm Labor Housing loan or grant is being processed.

4.2 OVERVIEW OF STAGE 1, PROCESSING THE NOFA RESPONSE

During this stage, the National Office publishes the NOFA in the Federal Register soliciting housing proposals and setting a deadline by which the NOFA responses must be submitted. The format of the NOFA response is designed to provide the maximum amount of information with a minimum amount of cash outlay on the part of the loan applicant. NOFA responses must describe the loan applicant, the project, and its proposed financing in sufficient detail to allow the loan processing staff to assess the preliminary eligibility of the proposal and the applicant, and to enable staff to rank the proposals.

The Loan Originator has 15 days from the published submission deadline to review NOFA responses for preliminary eligibility and then score and rank those responses. The Loan Originator faxes a list of ranked responses to the National Office by Close of Business on the 15th day deadline for National Office ranking. States will be notified of the selected responses that will be invited to move on to the next stage of the application process.

SECTION 1: INVITING NOFA RESPONSES

4.3 FUNDING AND RENTAL ASSISTANCE LIMITS

The amount of funds available for new construction and repair and rehabilitation, and rental assistance, is established annually in RD Instruction 1940-L, Methodology and Formulas for Allocations of Loan and Grant Program Funds, sent to the states by the National Office and as a notice published in the Federal Register. The NOFA will specify the maximum amount of funds for any one state to receive.

The National Office may set a limit on loan sizes in the NOFA. For example, the National Office may limit loan applications to $1.5 million each. If the per state limit is $3 million, the National Office would select up to two $1.5 million projects for each state. This does not mean that the total project cost would have to be limited to $1.5 million. Using the same limits provided in the example, a loan applicant could propose a project with a total appraised value of $3 million, but the Agency loan might fund only half of the project and other financing would fund the remaining $1.5 million.

The National Office ranks all eligible loan applications submitted by the states nationwide in order to select those for further processing.

4.4 STATE ACTIONS TO PREPARE FOR THE NOFA

The NOFA appears soon after the start of the fiscal year. Prior to the publication of the NOFA, states must take several steps, including:

- Reviewing and updating the state list of designated places and submitting to the National Office for concurrence. This list must be available to interested loan applicants upon publication of the NOFA.

- Submitting to the National Office no later than September 1 any state initiatives for which the state wishes to provide points in prioritizing their funding. Such initiatives must be submitted by the State Director for approval by the National Office prior to publication of the NOFA.

- Preparing a NOFA response package, that includes:

    ◊ The NOFA;

    ◊ Any Administrative Notices relevant to the NOFA; and

    ◊ A request for the items listed in Exhibits 4-4, 4-5, and 4-6.

- Preparing the initial loan application packages. These packages must be prepared by the time the NOFA is published so that they can be immediately sent out to NOFA responses selected for further processing.

4.5 THE NOFA

The National Office publishes a notice of funding availability (NOFA) in the Federal Register as soon after the start of the federal fiscal year as possible. The exact timing of this publication depends on the date of Congressional appropriation of funds for the program and the time required to publish RD Instruction 1940-L, Methodology and Formulas for Allocations of Loan and Grant Program Funds. Generally, the NOFA should be published on or around November 1.

The NOFA indicates:

- Individual loan limits and state funding limits;
- The information that applicants must submit in their NOFA response;
- The criteria the Agency will use to evaluate and rank proposals, including any special National Office initiatives;
- Subsequent information that will be required from any applicants who are invited to submit an initial application;
- The deadline for submitting NOFA responses; and
- The State Office address, contact name, and phone number where the following information may be obtained:
  - ◊ A list of designated places for the state;
  - ◊ A list of authorized loan uses (Exhibits 4-2 and 4-3);
  - ◊ Applicant eligibility requirements (Exhibit 4-4);
  - ◊ Any special conditions or limitations that are being applied on the amount of individual loan requests or rental assistance requests;
  - ◊ Any special State Office initiatives that will be awarded points that have been approved by the National Office;
  - ◊ A listing of all of the information required from applicants (Exhibits 4-4, 4-5, and 4-6); and
  - ◊ The address to which the NOFA response must be sent.

4.6 LOAN PURPOSES

Agency funding may be provided to qualified loan applicants to supply affordable rural rental or rural cooperative housing to eligible households in designated places.

A. Eligible Loan Purposes *[7 CFR 3560.53]*

Loan funds may be used for the purposes established in 7 CFR 3560.53. Exhibit 4-2 outlines the types of allowable loan purposes. **Attachment 4-B** defines each eligible loan purpose in greater detail.

Exhibit 4-2

Eligible Loan Purposes

A. New construction
B. Purchase and rehabilitation
C. Site acquisition and development
D. Necessary Systems
E. Landscaping/Site Improvement
F. Tenant facilities
G. Management facilities
H. Customary equipment and appliances
I. Initial operating capital for nonprofits
J. Packaging fees for nonprofits
K. Fees incurred in the formation or incorporation of the loan applicant entity for nonprofits
L. Technical assistance by nonprofits to nonprofits
M. Builder's profit, overhead, and general requirements
N. Legal, technical, environmental and professional services
O. Permit fees
P. Tax credit application and monitoring fees
Q. Educational programs for Cooperative Boards
R. Interest and charges on interim financing
S. Purchase housing from an interim lender
T. Demonstration projects
U. 502 conversions

B. Prohibited Uses of Loan Funds *[7 CFR 3560.54]*

Prohibited uses of loan funds appear at 7 CFR 3560.54 and are summarized in Exhibit 4-3. A detailed description of prohibited loan uses is presented in **Attachment 4-C**.

Exhibit 4-3

Prohibited Uses of Loan Funds

A. Housing for temporary or transient tenants (except for migrant labor housing)
B. Nursing homes or assisted living facilities
C. Facilities not meeting program design requirements
D. Commercial space
E. Specialized equipment for training and therapy
F. Operating costs of a dining facility
G. Non-affixed items (except in labor housing)
H. Value of contributed land in excess of equity requirements
I. Refinancing debt
J. Fees for referrals
K. Payments to any members of the applicant entity
L. Obligations incurred before loan closing except as permitted by 7 CFR 3560.62(f)
M. Developer's fees

Exhibit 4-4

Applicant Eligibility Requirements *[7CFR 3560.55]*

To be eligible for Agency assistance, applicants must meet the following requirements:

1) Be a United States citizen or legally admitted alien for permanent residence.
2) Be unable to obtain similar credit elsewhere at rates that would allow for rents within the payment ability of eligible residents.
3) Possess the legal and financial capacity to carry out the obligations required for the loan.
4) Be able to maintain, manage, and operate the multi-family housing project for its intended purpose and in accordance with all Agency program requirements.
5) With the exception of applicants who are a nonprofit organization, housing cooperative, or public body, be able to provide the borrower contribution from their own resources (this contribution must be in the form of cash, or land, or a combination thereof).
6) Have or be able to obtain a minimum of two percent of the total development costs for use as initial operating capital (for noprofit organizations, cooperatives, or public bodies, this amount may be financed through the loan).
7) Not be suspended, debarred, or excluded based on the "list of Parties Excluded from Federal Procurement and Nonprocurement Programs."
8) Additional requirements for applicants with prior debt:
   a) The applicant must be in compliance with any existing loan agreements and with all legal and regulatory requirements, or must have an Agency-approved workout agreement and have been in compliance with the provisions of the workout agreement for a minimum of six consecutive months as of the date the initial loan application is received.
   b) The applicant must be in compliance with the Civil Rights Act of 1964 and all applicable civil rights laws.

Exhibit 4-4 (continued)

Applicant Eligibility Requirements *[7CFR 3560.55]*

9) Additional requirements for nonprofit organizations (in addition to meeting the requirements listed in 1-8):

   a) The loan applicant must have received a tax-exempt ruling from the IRS designating the applicant as a 501(c)(3) or 501(c)(4) organization.

   b) The loan applicant must include as part of its organization purposes the provision of decent, safe, and sanitary housing that is affordable to very-low, low-, and moderate-income persons.

   c) No part of the loan applicant's earnings may benefit any of its members, founders, or contributors.

   d) The loan applicant must be organized under state and local law.

   e) The loan applicant's membership should reflect the demography of the community and be composed of:

      i) At least one-third representatives of the low-income community.

      ii) No more than one-third representatives of the public sector.

      iii) The composition of the remaining one-third is unrestricted.

   f) Additional requirements for limited partnerships (in addition to meeting the requirements listed in 1-8):

      i) The general partner must be able to meet the equity contribution requirements if the partnership is not able to do so at the time initial application is submitted.

      ii) The general partners must maintain a minimum five percent financial interest in the residuals or refinancing proceeds of the partnership.

      iii) The partnership must agree that new general partners can be brought into the organization only with the prior written consent of the Agency.

   g) Additional requirements for a Limited Liability Company (LLC) (in addition to meeting the requirements listed in 1-8):

      i) The authority of the members of the LLC must be limited, and an authorized agent to act on the LLC's behalf to bind the LLC must be appointed.

      ii) The management functions of the LLC must be the responsibility of a member who holds at least a five percent financial interest in the LLC.

      iii) The LLC must agree that any new members to be brought into the organization must have prior consent of the Agency.

      iv) A single member must commit to meet the equity contribution requirement if the LLC partnership is not able to do so at the time an initial application is submitted.

4.7 ACCEPTING NOFA RESPONSES

A. Date Stamping NOFA Responses

Loan applicants must submit their project proposals by the due date specified in the NOFA. The Loan Originator must date stamp all the project proposals when they are received. Late proposals must be returned to the loan applicant and will not be considered during the funding cycle.

B. 15-day Agency Review

The Loan Originator must make an assessment of preliminary eligibility of the housing proposals and prioritize them within 15 days following the NOFA response submission deadline. This review process must not begin until after the proposal submission deadline. The Loan Originator must not discuss any specific NOFA response with any of the loan applicants or any other outside parties until all NOFA responses have been reviewed and the National Office has notified the states about the initial applications that have been selected.

SECTION 2: THE REVIEW PROCESS AND SCORING AND RANKING

4.8 PRELIMINARY ASSESSMENT OF THE NOFA RESPONSE *[7 CFR 3560.56(b)]*

The preliminary assessment of the NOFA response conducted by the Loan Originator is designed only to assess preliminary eligibility, not project feasibility. NOFA responses should clearly and completely respond to the criteria set forth in the NOFA and must be rejected if preliminary eligibility cannot be established. Preliminary eligibility means:

- The NOFA response was received by the submission deadline;
- The response is complete as specified by the NOFA;
- The applicant is an eligible entity type and none of its member are currently debarred, suspended or in noncompliance with existing Agency loans;
- The applicant indicates the ability to provide the necessary financial resources;
- The applicant shows site control; and
- The project is for an authorized purpose in a designated place.

A. Was the NOFA Response Submitted on Time?

The Loan Originator refers to the date stamp on the NOFA response to determine whether the proposal was received by the submission deadline specified in the NOFA. If not, it must be returned to the loan applicant.

B. Is the Proposal Complete?

The Loan Originator must establish that all of the information required by the NOFA has been included in the NOFA response. Exhibits 4-5 and 4-6 list this necessary information. The Loan Originator must not solicit additional information or accept information that was not provided by the submission deadline. Any incomplete NOFA responses must not be considered during the funding cycle and must be returned to the loan applicant at the end of the 15-day review period.

C. Is the Applicant Eligible?

The Loan Originator must determine that:

◊ The applicant, or the principals of the applicant entity, are a US Citizen or Qualified Alien;

◊ If an organization, the applicant meets the definition in 7 CFR 3560.9;

◊ No members of the applicant entity are debarred or suspended from any federal programs or in noncompliance with existing Agency loans; and

◊ The applicant is not delinquent on any other federal debt.

If any of the above criteria are not met, the loan applicant is not eligible for a loan and the NOFA response must be returned to the loan applicant.

Exhibit 4-5

Information to be Included in the NOFA Response

A. Description of the proposed borrower:

1. Owner/borrower and type of entity or type of entity proposed and SSN or TIN (list general partners if limited partnership, officers if corporation, Board members if nonprofit, and provide all Social Security Numbers or Tax Identification Numbers)
2. Statement by borrower indicating net worth and available cash
3. Statement of housing experience
4. Citizenship status of principals

B. Description of the project:

1. Location of project
2. Brief description of nearby services and facilities
3. Description of site and necessary improvements
4. Project description (total number of units by bedroom size and square footage), including any related facilities, and development time line
5. Need and demand analysis
6. Development budget (total and cost/unit)
7. Proposed rent structures and rental assistance requirements
8. Evidence of site control
9. Description of any anticipated environmental issues

C. Description of the proposed financing:

1. Requested Agency loan amount
2. Leveraging sources (amount, type, rates and terms)
3. Agency loan to value (percentage of security value that Agency loan represents)
4. Agency lien position
5. Statement as to use of low income housing tax credit

D. Any other information specified in the NOFA

The following resources are available to establish the applicant's good standing with the federal government:

- The publication, "List of Parties Excluded from Federal Procurement and Nonprocurement Programs," provides a monthly listing of all suspended and debarred individuals and is available on the Internet, at http://www.arnet.gov/epls/. Once the site is entered, there are easy-to-follow instructions that will guide the user through the Excluded Parties List System (EPLS) and main menu. A hard copy of this publication is mailed to offices that are not hooked up to the Internet.

- The Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), identifies all individuals with delinquent federal debt. CAIVRS can be accessed by dialing 1-888-827-5605 and leaving requested information in the voice mail as prompted. If CAIVRS indicates that the applicant has a delinquent federal debt, the Loan Originator must verify with the point of contact listed that the information regarding the applicant is current. If the information is indeed current and the applicant is delinquent, the Loan Originator must reject the applicant as ineligible. The applicant must be informed of the reason for the rejection and be provided with the telephone number CAIVRS lists as a point of contact.

D. Does the Applicant Entity have the Financial Resources to Commit to the Project?

The applicant must submit a financial statement of net worth and cash resources indicating that they have the ability to provide the necessary financial resources to the project — either three or five percent of the loan as equity and, if not a nonprofit, two percent initial operating capital. For a limited partnership or Limited Liability Company, if the applicant entity has not been established and funded, then the assets of the individual general partners must be able to meet these program requirements.

E. Does the Applicant Show Site Control?

The loan applicant must show documentation of control of site. At this early stage of loan processing, site control is ideally in the form of an option to purchase from the owner of public record (since the loan applicant should not have purchased land in anticipation of a loan that may not be forthcoming), but can also be in the form of a deed (ownership), purchase contract, lease, or agreement to lease. Options for the site should be valid for one year with the option of extending for an additional sum. The applicant may use *Form RD 440-34, Option to Purchase Real Property* to show evidence of site control.

F. Is the Project for An Authorized Purpose and In a Designated Place?

The Loan Originator must make a preliminary determination regarding project eligibility. This eligibility determination involves a basic analysis of the project proposal to establish that:

- The project is for an authorized purpose; and
- The project is located in a designated place.

To make a determination of preliminary project eligibility, the Loan Originator must review the proposed uses of loan funds for the project proposal and compare these to **Attachments 4-B** and **4-C**, describing the eligible and prohibited uses of loan funds. If any of the proposed uses in the project proposal are prohibited or not eligible, the housing proposal must be rejected, returned to the loan applicant, and not considered during the funding cycle.

The Loan Originator checks the list of designated places to make sure that the location in which the project is proposed is a designated place. If not, the housing proposal is not eligible and must be returned to the loan applicant.

4.9 NEED AND DEMAND ANALYSIS

The need and demand analysis that the loan applicant must include as part of the NOFA response provides a narrative description of the market need and demand for the type of housing being proposed in the area. This analysis may be completed by the loan applicant personally through telephone surveys and face-to-face interviews. Alternatively, the loan applicant may hire an independent contractor to conduct the research. However, hiring an independent researcher to analyze the market is not required at this point. A complete market study or market feasibility documentation, depending upon the size of the project, will be required in the next stage of the application process, if the loan applicant is invited to proceed. Regardless of the method used to complete the need and demand analysis, the loan applicants must certify that they or their representative have visited the site and the market area.

The need and demand analysis should include enough information to provide the Loan Originator with information about the need for the type of project that is being proposed in the area and its sustainability. The Loan Originator should review this analysis carefully at this stage and discuss any concerns about it with the applicant if the applicant is invited to submit an initial application.

Exhibit 4-6 provides a list of what must be included in a need and demand analysis.

Exhibit 4-6

Descriptive Elements of the Need and Demand Analysis

1. Proportionate need for the project (family or elderly)
2. A description of the market area, including its relationship to other market areas, primary transportation routes to the area, etc.
3. Major employers in the area and year in which they were established
4. Employment opportunities and rates
5. Services such as shopping, schools and medical available, and their proximity to the site
6. Community services such as recreational, transportation, and day care available
7. Availability of utilities, such as sewer and water
8. A survey of existing housing, including number, type, and rents of other rental housing available
9. Vacancy rates
10. Waiting lists at other properties
11. Existing or proposed construction (assisted or unassisted)
12. Building permits issued in the past three years
13. Proposed rents in the project
14. Operating expenses of the project

4.10 LOAN REVIEW COMMITTEES

The State Director must establish a loan review committee to serve an oversight function and assist the Loan Originator in deciding which loan applications move through the loan origination process. The objective of this committee is to guarantee a fair and equitable review and scoring of NOFA responses.

The State Director appoints or approves members of the committee and determines its role. The loan review committee is made up of at least three federal employees, including the state staff member in charge of multifamily housing, the staff person with primary responsibility for loan origination, and one or more additional Agency state staff with multifamily housing underwriting experience, rotated annually where staffing permits. State Directors must not be members of this committee since they have the authority to approve all loans.

The role of the loan review committee varies from state to state. In its simplest form, the loan review committee only reviews the scoring and ranking of NOFA responses. In some states, it also sanctifies or rejects the Loan Originator's recommendations at the following decision points in the loan review process:

- When reviewing initial applications;
- When inviting final applications; or
- When making recommendations for approval to the State Director.

Other states make greater use of their loan review committees and have them actually perform some of the loan origination functions.

4.11 SCORING AND RANKING NOFA RESPONSES

Based on the information contained in the NOFA response only, the loan committee will score and then rank those proposals determined to be preliminarily eligible. Loan applicants must not be requested to submit additional information, and any additional information submitted after the deadline date must not be considered.

NOFA responses must be scored in accordance with the priorities identified in the regulation and the NOFA. The loan committee must use its best judgment in applying points to proposals. In some cases, it may not be entirely clear whether the project or applicant will meet all of the criteria for awarding points. The loan committee must have some comfort level in applying points and must inform applicants who are invited to submit initial applications that their scores may be reviewed and their applications reranked if subsequent information proves that points were awarded inappropriately. For example, it may not be entirely clear that an applicant meets all of the conditions necessary for points to be applied for donated land. The loan committee which gives such points must inform the loan applicant that the Agency reserves the right to rework them at a later date if necessary. If the points are adjusted, the applicant's ranking may be affected and the National Office may fund the next ranked applicant.

The NOFA will identify some or all of the following factors and list the number of points that will be applied for each factor.

- Leveraged assistance;
- High need communities;
- Agency initiatives; and
- Donated land.

A. Scoring Leveraged Assistance

1. Eligibility Requirements

Points will be given to project proposals which are enhanced through the use of other financing or which include value contributed by the applicant in excess of their required contribution, such as land value or tax credits. Leveraged assistance may benefit a project either through operating cost savings or through construction cost savings. Several conditions must be met in order for the points to be applied:

- The loan applicant must show evidence that application has been made for the additional funds or financing and that this leveraging is reasonably assured to be available by the time the loan applicant is in Stage 3 of the loan application process.
- Agency funds must only finance units for program income-eligible tenants. If the developer is building a mixed-income complex, only the portion of leveraged assistance that is being used to finance units for program income-eligible tenants will be considered in determining points.
- For those units that are financed by the Agency, the use of the leveraged assistance must not result in project rents that exceed conventional rents for comparable units in the area.
- There must be reasonable assurance that any leveraged assistance in the form of rental subsidy to tenants will be available for the term of the loan. For example, a state funded rental subsidy program that is expected to continue to be funded in future years would meet this requirement.
- Leveraged assistance in the form of operating cost savings must be for a minimum of five years.
- If the applicant uses value of land in excess of the required contribution as leveraged assistance, the loan applicant must be advised that if the appraisal shows the land value to be less than estimated, their ranking may be affected and they will have to provide to the project additional funds from their own resources in order to preserve their position.

2. Calculating the Percentage of Leveraged Assistance and Applying Points

Leveraged assistance is calculated differently, depending upon whether the cost savings are operational cost savings or construction cost savings.

1. Calculating operating cost savings and applying points.

Operating cost savings, such as tax abatements, tenant subsidies, or donated services, are calculated as a per unit cost savings for the term of the savings. Savings must be available for at least five years.

To calculate the savings, take the total amount of savings and divide it by the number of units in the project which will benefit from the savings to obtain the per unit cost savings. In a mixed income complex that will serve other than RHS income-eligible tenants, use only the number of units that will serve RHS income-eligible tenants. Round the percentages to the nearest whole number, rounding up at 0.50 and above, and down at 0.49 and below. For example, 25.50 becomes 26; 25.49 becomes 25.

Use the following table to apply points.

Per-Unit Cost Savings	Points
$15,000 and above	20
$10,001—$15,000	18
$7,501—$10,000	16
$5,001—$7,500	12
$3,501—$5,000	10
$2,001—$3,500	8
$1,000—$2,000	5

2. Calculating construction cost savings and applying points.

Construction cost savings is calculated as a percentage of the total development cost (TDC), excluding any costs prohibited by the Agency as loan expenses. In a mixed income project that will serve other than Agency income-eligible tenants, use the TDC for only those units that will serve Agency income-eligible tenants and divide that by the number of units that will serve Agency income-eligible tenants. Round the percentages to the nearest whole number, rounding up at 0.50 and above, and down at 0.49 and below. For example, 25.50 becomes 26; 25.49 becomes 25.

Use the following table to award points for leveraged assistance:

Percentage	Points
75 or more	20
70-74	19
65-69	18
60-64	17
55-59	16
50-54	15
45-49	14
40-44	13
35-39	12
30-34	11
25-29	10
20-24	9
15-19	8
10-14	7
5-9	6
0-4	0

B. Scoring Other Factors

1. High Need Communities

Projects to be developed in a colonia, tribal land, EZ, EC, or REAP community, or in a place identified in the State Consolidated Plan or State needs assessment as a high need community for multifamily housing will receive points.

2. National Office Initiative

NOFA responses that support a National Office initiative announced in the NOFA will receive points.

3. State Initiatives

NOFA responses in support of an optional factor developed by the state that promotes compatibility with special housing initiatives in conjunction with state-administered housing programs such as HOME funds or low-income housing tax credits will receive priority points. A factor thus developed cannot

Types of Leveraged Assistance

The following types of leveraged assistance are eligible to receive points:

- Grants;
- Loans from other sources, including from the applicant, that have an interest rate such that when added to all funding sources in the project, result in rents that do not exceed conventional rents for comparable projects;
- Contributions (including appraised value of land) from the applicant's own resources above the required contribution indicated by the Sources and Uses Comprehensive Evaluation;
- Non-Agency financed rental subsidy;
- Tax abatements or other savings in operating costs provided that, without the abatement, the basic rents in the project do not exceed conventional rents for comparable units;
- Tax credit proceeds applied to the project; and
- Tenant subsidies, provided they are appropriate for tenant income levels and are for the term of the loan.

duplicate factors already included in the NOFA and must be approved by the National Office prior to the NOFA publication.

4. Donated Land

For donated land to be eligible for priority points, all of the conditions listed below must be met. Remember, some of these conditions may have to be confirmed at a later date; the Agency reserves the right to withdraw points if the conditions are not met.

- The land is donated by a state, unit of local government, public body or a nonprofit organization;
- The land appears to be suitable and meets Agency requirements;
- Site development costs do not exceed what they would be to purchase and develop an alternative site. (For example, if the site development costs of the donated site are $50,000 and purchasing an alternative site would cost $20,000 and $15,000 to develop, for a total of $35,000, donation of the site would not be cost effective or qualify for additional priority points.) Applicants must be informed that regardless of their investment in the site, the site may not be accepted if the Agency's environmental review indicates the potential for impact on protected resources or other important land uses, or if a potential for contamination exists from hazardous substances, hazardous wastes, or petroleum products;
- Operational costs are not increased by the land (such as would be the case if high insurance premiums for flood insurance were required);
- The overall cost of the project is reduced by the donation of the land;
- The donor of the site has owned it for at least one year; [The State Director may waive this criteria when it can be shown that the purchase was not made to circumvent the intent of this paragraph.] and
- The loan applicant provides the value of the donated land, which must later be confirmed by the Agency. A return on investment is not paid to the loan applicant for the value of the donated land nor is the value of the land considered as part of the loan applicant's contribution.

C. Ranking NOFA Responses

NOFA responses must be ranked in order of highest point score. When there are point score ties, the following rules apply:

- Preference must be given in the case of project proposals that earned equal points to the proposal which qualifies as a nonprofit applicant according to the following requirements:

◊ The applicant is a local nonprofit organization, public body, or Indian Tribe whose principal purposes include the planning, development, and management of low-income housing;

◊ The applicant is exempt from federal income taxes under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code;

◊ The applicant is not wholly- or partially-owned, or controlled by a for-profit or limited-profit type entity;

◊ The applicant's members, or the entity, do not share an identity of interest with a for-profit or limited-profit type entity;

◊ The applicant is not co-venturing with another entity; and

◊ The applicant entity or its members will not be receiving any direct or indirect benefits pursuant to the low income housing tax credit.

- If the tying NOFA responses are both from nonprofit organizations who meet the description above, or if neither one is a nonprofit, a lottery must be held and preference given to the first drawn applicant. An acceptable form of selection by lottery would be to throw the names of all of the tying applicants into a hat and draw a name. The Loan Originator should only do this in the presence of the loan review committee so that no charges of favoritism can be leveled against the Loan Originator by any of the applicants who are not drawn first.

Example of Scoring and Ranking NOFA Responses			
Project	**Applicant and Project Description**	**Total Points**	**Ranking**
Green Acres	**Limited Partnership** Leveraged Assistance: 20 EZ/EC: 20 Agency Initiative: 20 Donated Land: 5	65	1
Belrose Place	**Limited Partnership** Leveraged Assistance: 15 EZ/EC: 20 Agency Initiative: 20	55	2
Meyton Place	**Limited Partnership** Leveraged Assistance: 20 Agency Initiative: 20 Donated Land: 5	45	3

Example of Scoring and Ranking NOFA Responses (continued)			
Awesome Apartments	**Nonprofit** Agency Initiative: 20 EZ/EC: 20	40	4
Delaplane Mews	**Limited Partnership** Leveraged Assistance: 20 Agency Initiative: 20	40	5

D. Review of Highest Ranked NOFA Responses to Identify Issues to be Addressed in Initial Application

The Loan Originator must conduct a review of top ranking NOFA responses to identify potential issues that will need to be specified as concerns in the letter inviting the initial application and later discussed with the loan applicants during the preliminary conference held early in Stage 2. The following evaluations must be made:

- Do the loan applicants have some housing experience and if not, are they proposing to hire someone who does to help them? A loan applicant who does not have housing experience will not necessarily be disqualified. However, the Loan Originator must advise the applicants that an Agency loan will be contingent upon hiring by them of someone who does have housing experience.
- Is there a market for the project at the rental rates projected? The market feasibility documentation provided by the loan applicant at this stage is only cursory; however, if the Loan Originator is familiar with the market and has any concerns about it, these must be raised with the applicants if they are invited to submit an initial application. The market must show the strongest need for the type of units proposed.
- Do rents seem reasonable and will they cover projected costs? Rents must appear to be affordable to program eligible applicants within the market area.
- Are there any known or suspected environmental problems that will need to be addressed in the development of the Agency's environmental review?"
- What are the other leveraging sources? Are they likely to be obtained and might there be some timing issues in coordinating these sources with Agency funding?
- Is the borrower planning to use the low income housing tax credit? Use of tax credits will affect the amount of equity required from the borrower.
- Are the proposed security and the Agency's lien position acceptable?

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SECTION 3: THE SELECTION PROCESS

4.12 INVITING INITIAL APPLICATIONS

A. Selecting Applicants

Based upon the National Office ranking and selection, the Loan Originator invites the top-ranked project proposals to submit initial applications. States will return any unused funds to the National Office for redistribution.

B. Selecting Between Non-RA and RA Applicants

In accordance with 7 CFR 3560.56 (a)(4), the National Office will consider NOFA responses requesting rental assistance (RA) in rank order to the extent RA is available. When there is no rental assistance available, the Agency will consider only those NOFA responses which do not require rental assistance. If RA is not available for a next ranked proposal(s), the National Office may select a lower ranked NOFA response over a higher ranked NOFA response when available RA does not allow for funding all responses that request RA.

4.13 INFORMING THE APPLICANTS OF RESULTS OF NOFA RESPONSE REVIEW

Once all of the NOFA responses have been scored and ranked and the National Office has advised states of the proposals selected for further processing, the Loan Originator must respond to all of the loan applicants with one of three types of letters:

- <u>Letter inviting initial applications</u>. These letters go to the applicants who have top-ranked, fundable projects that will be invited to go on to the next stage. These letters will include initial application package materials, discussed in the following chapter of this handbook.

- <u>Letter informing the applicant of a lack of funds</u>. These letters go to loan applicants whose projects did not rank high enough to be considered in the current funding cycle. These applicants must be informed that they can resubmit their proposal in a future funding cycle. The original NOFA response must be returned to the applicant with the letter, and a copy of the NOFA response should be kept on file in the event of an appeal.

- <u>Letter rejecting the applicant due to ineligibility</u>. These letters go to loan applicants who have submitted applications for an unauthorized purpose or who are ineligible applicants. Their NOFA responses must be returned to them with the reason(s) for their rejection specified, and the applicants must be given appeal rights in accordance with 7 CFR part 11. A copy of the project proposal must be retained by the Loan Originator in the event of an appeal.

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ATTACHMENT 4-A

STATE NOFA RESPONSE SUMMARY SHEET

[Insert Exhibit 1 of AN 3713 (1944-E)]

ATTACHMENT 4-B

ELIGIBLE LOAN PURPOSES

1. Construct new multifamily housing.

2. Purchase and rehabilitate existing buildings that have not been previously financed by the Agency. In such an event, the rehabilitation must meet the definition of either moderate or substantial rehabilitation as defined in RD Instruction 1924-A, Planning and Performing Construction and Other Development. The building or project to be rehabilitated must be structurally sound, and the improvements to the project must be necessary to meet the requirements of decent, safe, and sanitary living units. The total development cost (TDC) for the purchase and rehabilitation of existing buildings must not be more than the estimated TDC for construction of a similar type and unit size property in the same area.

3. Develop housing in a downtown area provided the project is part of the community's comprehensive plan.

4. Purchase and improve the project site. The amount of the loan funds used to purchase the site may not exceed the appraised market value of the site in its present condition. Loan funds may be used to purchase land in excess of what is needed only when:

   - The loan applicant cannot acquire only the needed land at a fair price and agrees to sell the excess land as soon as practical and apply proceeds to the loan; and

   - Program site density requirements are met in accordance with Chapter 3, Property Requirements, of this handbook.

5. Develop and install necessary systems such as streets, a water supply, sewage disposal, heating and cooling systems, electric, gas, solar, or other power sources for lighting and other features necessary for the housing. If such facilities are located off-site, the following additional requirements must be met:

   - The loan applicant will hold title to the facility or have a legal right to use the facility for a period of at least 50 percent longer than the life of the loan and the title or right is transferable to any subsequent owner of the site.

   - The facilities will be provided for the exclusive use of the project. If not, Agency funds must be limited to the prorated part of the total cost of the facility according to the use and benefit to the project. In such cases, the loan applicant will agree in writing to apply, as extra payments on the loan, any subsequent collection by the loan applicant from other users or beneficiaries of the facility.

6. Landscaping and all site development related to the project such as lighting, walks, fences, parking areas, and driveways.

7. Tenant-related facilities which the loan applicant can document are needed by prospective tenants, such as a community room; central laundry facility; central cooking and dining in congregate housing and group homes; and passive recreation or active facilities, such as outdoor seating for elderly and tot lots for family projects.

8. Management-related facilities such as a maintenance workshop, storage facilities, and office and living quarters for the resident manager and other operating personnel.

9. Purchase and install equipment and appliances as customary and appropriate for the area in which the project is located.

10. For farm labor housing Section 514/516 only, funds may be used to purchase household furnishings.

11. Initial operating capital for any state or political subdivision thereof or Indian tribe or any broad-based public or private nonprofit borrower who is not receiving low income housing tax credits. Loan funds may be used to pay initial operating expenses up to 2 percent of the total development cost.

12. Builder's profit, overhead, and general requirements as follows:

    - Builder's profit: up to 10 percent of the construction contract.
    - General overhead: up to 4 percent of the construction contract.
    - General requirements: up to 7 percent of the construction contract.

13. Legal, technical, environmental, and professional services related to the project.

14. Application and permit fees related to the project. These include market studies; tax credit application and monitoring fees; legal (costs pertaining to the closing of the Agency loan only), archeological, architectural, engineering, environmental, and other appropriate technical and professional services.

15. Reimbursement to nonprofit organizations and public bodies. Loan funds may be used to reimburse a nonprofit organization or public body, up to two percent of total development cost, for:

    - Development and packaging of a loan application and a multi-family housing proposal, including legal, technical, and professional fees incurred in the applicant's formation or incorporation; or

    - Technical assistance from another nonprofit organization to assist in formation or incorporation and development and packaging of a loan application and multi-family housing proposal.

16. Educational programs. The National Office may approve, on a case-by-case basis, during the first year of a cooperative's housing operation, the use of loan funds to pay for the members of the cooperative to attend educational programs relative to the function and responsibilities of cooperatives.

17. Interest accrued and customary charges necessary to obtain interim financing, up to the maximum debt limit (MDL).

18. Purchase housing from an interim lender. Loan funds may be used to purchase housing from an interim lender that holds fee simple title to an Agency-financed project upon which construction had commenced and a letter of commitment had been issued by the Agency, but the original applicant for whom funds were obligated will not or cannot continue with the project. In order for the purchase to take place, there must be no unpaid obligations outstanding in connection with the project.

19. Relocation costs. Loan funds may be used to pay for necessary costs incurred to comply with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970.

20. Demonstration projects involving innovative housing units and systems which do not meet existing published standards, rules, regulations, or policies, but do meet the intent of providing decent, safe, and sanitary rural housing when the Agency authorizes loan funds for this purpose. Such project applications must be forwarded to the National Office for its review.

21. Conversion of 502 properties. In accordance with program regulations, loan funds may be used to finance the conversion of real estate owned units originally financed under Section 502 single family homeownership program to Section 515 multi-family housing.

22. Expenses incurred before loan approval when the project is funded and the conditions listed in **Attachment 4-C**, item 11 are met.

ATTACHMENT 4-C

PROHIBITED LOAN USES

1. Housing to serve primarily temporary and transient residents (except migrant farm labor housing), nursing homes, special care facilities, or institutional-type homes. Group homes are not included in this prohibition.

2. Facilities which are not consistent with the design requirements specified in Chapter 3.

3. Any costs associated with space in a project that is leased for commercial use or any commercial facilities except essential service-type facilities when otherwise not conveniently available.

4. Specialized equipment for training and therapy.

5. Operating expenses for a central dining facility, or items that do not become affixed to the property, except for the household furnishings permitted by farm labor housing.

6. Compensation to a for-profit loan applicant for value of land contributed in excess of the initial equity contribution.

7. Refinancing of a loan applicant's debt, except: (a) to take out interim financing; or (b) when it is necessary to obtain a release of an existing lien on land owned by a nonprofit organization.

8. Payment of any fee, charge, or commission to a broker or anyone else for referral of a prospective loan applicant or solicitation of a loan.

9. Payment to any officer, director, trustee, stockholder, member, or agent of an applicant except for those payments made to a nonprofit organization providing technical assistance to another nonprofit loan applicant.

10. Developer's fees.

11. Obligations incurred before loan approval. Any expense incurred by a loan applicant prior to loan approval is at the loan applicant's own risk. Loan funds may be used for expenses incurred before loan approval only when the project is funded and all of the following conditions are met:

    - The debts were incurred for eligible loan purposes;

    - Contracts, materials, construction, and any land purchased meet Agency standards and requirements; and

    - Payment of the debts will remove any liens which have been attached and any basis for liens that may be attached to the property on account of such debts.

12. In accordance with RD Instruction 1924-A, Planning and Performing Construction and Other Development, contractors will not be allowed to obtain a profit and overhead unless they are performing actual construction. "Actual construction" means "work" as defined in American Institute of Architects (AIA) documents: ". . . labor, materials, equipment, and services provided by the contractor to fulfill the contractor's obligations." Under this definition, contractors who choose to subcontract out construction of the project to another contractor will not obtain a builder's fee (general overhead and profit) when:

    - More than 50 percent of the contract sum in the construction contract is subcontracted to one subcontractor, material supplier, or equipment lessor, and/or

    - 75 percent or more with three or fewer subcontractors, material suppliers, and/or equipment lessors.

If two or more subcontractors have common ownership, they are considered as one subcontractor.